

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 163 of 1995

in

SPECIAL CIVIL APPLICATION No 10069 of 1994

WITH

LETTERS PATENT APPEAL NO 164 OF 1995

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR. K.G.BALAKRISHNAN and
MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PETLAD NAGAR PALIKA

Versus

RK SHAH & ANR

Appearance:

MR YV SHAH for Appellant
MR RV DESAI for Respondent No. 1

CORAM : CHIEF JUSTICE MR. K.G.BALAKRISHNAN and

ORAL JUDGEMENT (Per J.M.Panchal, J)

As these appeals arise out of common order dated April 5, 1995 rendered in Special Civil Application No.10069 of 1994 and Special Civil Application No. 13286 of 1994, we propose to dispose of them by this common order.

2. Between 1980 to 1983 27 recovery applications were filed under Section 33 -C (2) of the Industrial Disputes Act by the employees of the appellant for claiming (1) Retrenchment compensation, (2) Wages towards earned leave and wages towards sick leave, (3) 3 months wages towards notice pay and difference of wages etc.

3. In 1991 the Labour Court decided 27 recovery application in favour of the respondent workmen. Feeling aggrieved by the said award the appellant filed special civil application No.3925 of 1991. However the Division Bench of this Court dismissed the petition by judgement and order dated December 12, 1991. Against the order of the High Court, the appellants preferred Special Leave Petition before the Supreme court. The SLP was also dismissed by the Supreme court. However, liberty was reserved to the appellant to move the appropriate forum in case there was any difficulty about the computation of amount. In view of the fact that the SLP was dismissed by the Supreme Court, the appellant Municipality ought to have paid the amount decided in the recovery application to the workmen. However, inspite of making payment the appellant started fresh round of litigation and by an application prayed the Labour Court to review its earlier award. The Labour Court after hearing the parties at length and considering the material on record ultimately computed an amount of Rs.485567.85 ps and issued certificate in favour of the workmen. That was challenged by the appellant in the two petitions which have been referred to herein above. The Learned Single Judge rejected the petitions by judgement dated April 5, 1995 giving rise to the present appeals.

4. We have heard the Learned Counsel for the parties. The Learned Counsel for the appellant submitted that no computation of the exact amount payable to each worker towards different claims was made by the Labour Court and therefore the judgement rendered by the Learned Single Judge deserves to be set aside. It was claimed that the applications for review filed by the appellant pursuant to the order passed by the Supreme Court were

maintainable and as the Learned Judge has committed an error in rejecting the petitions filed by the appellant challenging the said award, the appeal should be entertained. In our view there is no substance in any of the contentions urged on behalf of the appellant and the appeals cannot be entertained. The Learned Single Judge has observed in the impugned judgement that the Labour Court after hearing the parties at length and considering the material on record ultimately computed an amount of Rs.485465.85 ps and issued the certificate. It is admitted position that on behalf of the workmen 3 workmen were examined and their deposition was recorded before the Labour Court. Under the circumstances it is not correct to say that the amount was determined without any evidence or that there is no computation and/or determination of the exact amount payable to each worker by the Labour Court. The directions issued by the Labour Court must be viewed in the light of evidence led by the workmen in support of their respective claims. On the facts and in the circumstances of the case, we do not find any infirmity in the judgement rendered by the Learned Single Judge. The appeals therefore cannot be entertained and are liable to be rejected.

5. For the forgoing reasons the appeals fail and are summarily rejected. Notice issued in each appeal is discharged with no order as to costs.

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